



# Finance Act 1998

## 1998 CHAPTER 36

### PART II

#### VALUE ADDED TAX

#### **21 Deemed supplies.**

- (1) Paragraph 5 of Schedule 4 to the <sup>M1</sup>Value Added Tax Act 1994 (disposal of business assets) shall be amended as follows.
- (2) In sub-paragraph (2)(a) (exception for gifts of small value), for “is” there shall be substituted “ of acquiring or, as the case may be, producing the goods was ”.
- (3) After sub-paragraph (2) there shall be inserted the following sub-paragraph—

“(2A) For the purposes of determining the cost to the donor of acquiring or producing goods of which he has made a gift, where—

  - (a) the acquisition by the donor of the goods, or anything comprised in the goods, was by means of a transfer of a business, or a part of a business, as a going concern,
  - (b) the assets transferred by that transfer included those goods or that thing, and
  - (c) the transfer of those assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services,

the donor and his predecessor or, as the case may be, all of his predecessors shall be treated as if they were the same person.”
- (4) In sub-paragraph (5) (transactions without consideration to be treated as supplies under paragraph 5 only where the supplier is a person entitled to credit for input tax), for “is” there shall be substituted “ or any of his predecessors is a person who (disregarding this paragraph) has or will become ”.
- (5) After that sub-paragraph there shall be inserted the following sub-paragraph—

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“(5A) In relation to any goods or anything comprised in any goods, a person is the predecessor of another for the purposes of this paragraph if—

- (a) that other person is a person to whom he has transferred assets of his business by a transfer of that business, or a part of it, as a going concern;
- (b) those assets consisted of or included those goods or that thing; and
- (c) the transfer of the assets is one falling by virtue of an order under section 5(3) (or under an enactment re-enacted in section 5(3)) to be treated as neither a supply of goods nor a supply of services;

and references in this paragraph to a person’s predecessors include references to the predecessors of his predecessors through any number of transfers.”

- (6) The preceding provisions of this section apply to any case where the time when the goods are transferred or disposed of or, as the case may be, put to use, used or made available for use is on or after 17th March 1998.

**Marginal Citations**

M1 1994 c. 23.

**22 Changes of place of supply: transitional.**

- (1) In the <sup>M2</sup>Value Added Tax Act 1994 the following section shall be inserted after section 97 (orders, rules and regulations)—

**“97A Place of supply orders: transitional provision.**

- (1) This section shall have effect for the purpose of giving effect to any order made on or after 17th March 1998 under section 7(11), if—
  - (a) the order provides for services of a description specified in the order to be treated as supplied in the United Kingdom;
  - (b) the services would not have fallen to be so treated apart from the order;
  - (c) the services are not services that would have fallen to be so treated under any provision re-enacted in the order; and
  - (d) the order is expressed to come into force in relation to services supplied on or after a date specified in the order (“the commencement date”).
- (2) Invoices and other documents provided to any person before the commencement date shall be disregarded in determining the time of the supply of any services which, if their time of supply were on or after the commencement date, would be treated by virtue of the order as supplied in the United Kingdom.
- (3) If there is a payment in respect of any services of the specified description that was received by the supplier before the commencement date, so much (if any) of that payment as relates to times on or after that date shall be treated as if it were a payment received on the commencement date.

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- (4) If there is a payment in respect of services of the specified description that is or has been received by the supplier on or after the commencement date, so much (if any) of that payment as relates to times before that date shall be treated as if it were a payment received before that date.
- (5) Subject to subsection (6) below, a payment in respect of any services shall be taken for the purposes of this section to relate to the time of the performance of those services.
- (6) Where a payment is received in respect of any services the performance of which takes place over a period a part of which falls before the commencement date and a part of which does not—
- (a) an apportionment shall be made, on a just and reasonable basis, of the extent to which the payment is attributable to so much of the performance of those services as took place before that date;
  - (b) the payment shall, to that extent, be taken for the purposes of this section to relate to a time before that date; and
  - (c) the remainder, if any, of the payment shall be taken for those purposes to relate to times on or after that date.”
- (2) In section 6 of the <sup>M3</sup>Value Added Tax Act 1994 (time of supply), after subsection (14) there shall be inserted the following subsection—
- “(14A) In relation to any services of a description specified in an order under section 7(11), this section and any regulations under this section or section 8(4) shall have effect subject to section 97A.”
- (3) This section shall be deemed to have come into force on 17th March 1998.

**Marginal Citations**

**M2** 1994 c. 23.

**M3** 1994 c. 23.

**23 Bad debt relief.**

- (1) In subsection (1)(a) of section 36 of the <sup>M4</sup>Value Added Tax Act 1994 (bad debts), the words “for a consideration in money” shall be omitted.
- (2) In subsection (3) of that section—
- (a) in paragraph (a), for “payment by way” there shall be substituted “ part ”; and
  - (b) in paragraph (b), for “a payment or payments by way” there shall be substituted “ any part ” and for “the payment (or the aggregate of the payments)” there shall be substituted “ that part ”.
- (3) After that subsection there shall be inserted the following subsection—
- “(3A) For the purposes of this section, where the whole or any part of the consideration for the supply does not consist of money, the amount in money that shall be taken to represent any non-monetary part of the consideration shall be so much of the amount made up of—
- (a) the value of the supply, and
  - (b) the VAT charged on the supply,

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as is attributable to the non-monetary consideration in question.”

- (4) In subsection (5) of that section—
- (a) in paragraph (c), for “subsequent payments” there shall be substituted “anything subsequently received”; and
  - (b) in paragraph (e), for “payment (or further payment) by way” there shall be substituted “part (or further part)”.
- (5) In subsection (6) of that section, in paragraphs (b) and (c) for “a payment” there shall in each place be substituted “anything received”.
- (6) In subsection (7) of that section, for “part payment” there shall be substituted “receipt of part of the consideration”.
- (7) Subsections (1) to (3) above have effect in relation to claims made on or after the day on which this Act is passed.

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**Marginal Citations**

**M4** 1994 c. 23.

## 24 Long leases in Scotland.

In section 96(1) of the <sup>M5</sup>Value Added Tax Act 1994, in paragraph (b) of the definition of “major interest” (land in Scotland not held on feudal tenure: lessee’s interest must be for a period exceeding 21 years), for “exceeding 21 years” there shall be substituted “of not less than 20 years”.

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**Marginal Citations**

**M5** 1994 c. 23.

**Changes to legislation:**

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